

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Thomas H. Bray,

Plaintiff,

vs.

Bank of America, MERS, Inc.,
Country Wide Home Loans, et. al.,

Defendants.

**ORDER FOR RULE 16(b) SCHEDULING
CONFERENCE AND ORDER RE
RESOLUTION OF DISCOVERY DISPUTES**

Case No.: 1:09-cv-075

IT IS ORDERED:

RULE 26(f) MEETING & RULE 16(b) SCHEDULING CONFERENCE

The undersigned hold a shall hold a Rule 16(b) initial pretrial scheduling/discovery conference on January 28, 2010, at 10:00 a.m. CST. The scheduling conference will held at the United States Courthouse in Bismarck, North Dakota (courtroom #2). A sample scheduling and discovery plan is posted on the court's website (www.ndd.uscourts.gov/forms.html) for the parties' reference.

RESOLUTION OF DISCOVERY DISPUTES

It is further **ORDERED** that the following steps be undertaken by all parties prior to the filing of any discovery motions:

- 1) The parties are strongly encouraged to informally resolve all discovery issues and disputes without the necessity of Court intervention. In that regard, the parties are first required to confer and fully comply with Rule 37(a)(2) of the Federal Rules of Civil Procedure and Local Rule 37.1 by undertaking a sincere, good faith effort to try to resolve all differences without Court action or intervention;
- 2) In the event that reasonable, good faith efforts have been made by all parties to

confer and attempt to resolve any differences, without success, the parties are then required to schedule a telephonic conference with the Magistrate Judge in an effort to try to resolve the discovery dispute prior to the filing of any motions. The parties shall exhaust the first two steps of the process before any motions, briefs, memorandums of law, exhibits, deposition transcripts, or any other discovery materials are filed with the Court.

- 3) If the dispute still cannot be resolved following a telephonic conference with the Magistrate Judge, then the Court (Magistrate Judge) will entertain a motion to compel discovery, motion for sanctions, motion for protective order, or other discovery motions. In connection with the filing of any such motions, the moving party shall first fully comply with all requirements of Rule 37(a)(2) of the Federal Rules of Civil Procedure and Local Rule 37.1 and shall submit the appropriate certifications to the Court as required by those rules.
- 4) The Court will refuse to hear any discovery motion unless the parties have made a sincere, good faith effort to resolve the dispute and all of the above-identified steps have been strictly complied with. A failure to fully comply with all of the prerequisite steps may result in a denial of any motion with prejudice and may result in an award of costs and reasonable attorney's fees.

IT IS SO ORDERED.

Dated this 18th of December, 2009.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge